

**BEFORE THE
DENTAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition for Early Termination
Of Probation of:

ALI SAEGHI,

**Dental License No. 46130
Fictitious Name Permit No. 9530**

Petitioner,

Case No. DBC 2013-15

OAH No. 2017010660

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Dental Board of California, Department of Consumer Affairs, as its Decision in the above-entitled matter.

This Decision shall become effective on September 17, 2017.

IT IS SO ORDERED August 18, 2017.



Bruce Whitchee, DDS
Board President
Dental Board of California
Department of Consumer Affairs

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In the Matter of the Petition for Early
Termination of Probation of:

ALI SAEGHI, DDS.

Dental License No. 46130,
Fictitious Name Permit No. 9530,

Petitioner.

Case No. AD-2009-1289

OAH No. 2017010660

PROPOSED DECISION

Ji-Lan Zang, Administrative Law Judge (ALJ), Office of Administrative Hearings, heard this matter on June 12, 2017, in Los Angeles, California.

Petitioner Ali Saeghi, DDS (petitioner) was present and represented himself.

Pursuant to the provisions of Government Code Section 11522, Olivia Kim, a Certified Law Student supervised by Stephen D. Svetich, Deputy Attorney General represented the Attorney General of the State of California.

Oral and documentary evidence was received. The record was held open until June 26, 2017, for petitioner to submit additional documentary evidence regarding any tax liens and unlawful detainer actions filed against him. The Attorney General was granted leave until July 5, 2017, to file and serve a response, if any. On June 19, 2017, the Attorney General filed and served a letter (lodged as exhibit 6), stating that he did not object to two documents he received from petitioner. On June 27, 2017, the ALJ received and admitted the two documents¹ as follows: (1) petitioner's tax transcript for the tax year ending in 2015 (marked and admitted as exhibit A); and (2) case summary for an unlawful detainer action, *Saticoy LLC vs. Ali Saeghi*, case number 10B03976 (marked and admitted as exhibit B).

Petitioner's Exhibit A, which was provided to ALJ, is a tax transcript. Because the document contain confidential, private information which cannot be protected by redaction,

¹ The reason for the delay in the ALJ's receipt of these exhibits has not been determined.

entry of a protective order is appropriate. Therefore, good cause appearing, the ALJ ordered that, following the use of the exhibit in preparation of the Proposed Decision, exhibit A shall be placed under seal and protected from disclosure to the public.²

The record was closed and the matter submitted for decision on June 27, 2017.

FACTUAL FINDINGS

1. On May 5, 1999, the Dental Board of California (Board) issued Dental License Number 46130 to petitioner. The dental license is scheduled to expire on January 31, 2018, unless renewed.

2. On October 3, 2011, the Board issued Fictitious Name Permit 9530 to petitioner. The fictitious name permit is scheduled to expire on January 31, 2018, unless renewed.

3. On August 14, 2013, the Board filed an Accusation (case number DBC 2013-15) against petitioner. On June 20, 2014, petitioner entered into a Stipulated Settlement and Disciplinary Order (Stipulation) admitting the truth of each and every charge and allegations contained in the Accusation.

4. On July 25, 2014, the Board adopted the Stipulation and issued a Decision and Order (Probation Order) which became effective on August 22, 2014. Petitioner's dental license and fictitious name permit were revoked. However, the revocations were stayed, and petitioner was placed on probation for four years, subject to terms and conditions. Probationary terms included payment of \$3,6164.10 in costs, completion of an ethics course, and performance of community service for at least 40 hours per year. Petitioner's Board probation is scheduled to terminate on August 22, 2018.

5. The Probation Order arose from petitioner's April 14, 2010 felony conviction, following his guilty plea, for violating Business and Professions Code section 650, subdivision (a),³ payment for patient referrals. The conviction was based on the following

² A Protective Order sealing Exhibit A has been issued and served to both parties.

³ Business and Professions Code section 650, subdivision (a), provides:

Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients,

facts and circumstances alleged in the Accusation and admitted as true by petitioner in the Stipulation:

On or about November 1, 2007 through on or about December 29, 2009, Respondent employed C.C. as a solicitor by paying her a fixed price of \$80.00 per patient for each patient she and her two children brought to his office. Additionally, Respondent was paid \$92,187.64 by Medi-Cal for 154 patients who were over the age of 21 yet fraudulently qualified under the Medi-Cal Child Health and Disability Prevention Program which offers temporary Medi-Cal coverage to beneficiaries under 19 years of age.

(Ex. 1, Accusation, Case No. DBC 2013-15, p. 5, lines 15-21.)

6. As a result of this conviction, petitioner was placed on summary probation for 18 months, under terms and conditions which included incarceration in jail for one day and payment of fines, fees, and restitution. On February 4, 2011, the court reduced petitioner's felony conviction to a misdemeanor pursuant to Penal Code section 17, subdivision (b). Petitioner complied with the terms of his criminal probation and completed his criminal probation in October 2011. The conviction was dismissed pursuant to Penal Code section 1203.4 on August 26, 2012.

7. Petitioner has completed nearly three years of his Board probation. On September 26, 2016, he filed a Petition for Early Termination of Probation, and this hearing ensued.

8. Petitioner is 51 years old and has an 11-year-old daughter. He obtained a degree in dentistry from the University of Gothenburg in 1996 and moved to the United States shortly thereafter in January 1997.

9. At the administrative hearing, petitioner denied that he had engaged in fraudulent activity. He offered various explanations for the misconduct which led to his criminal conviction and Board probation. Petitioner initially contended that he did not know that paying a solicitor for patient referrals was illegal. He later denied that he had paid the solicitor to refer patients to him, claiming that his payments to the solicitor were reimbursement for the cost of transporting the patients to his office. Petitioner blamed his staff members for failing to verify the age of his patients, even though he was their supervisor. He asserted that he had no way of knowing some of his patients were over the age of 19 when he billed the Medi-Cal Child Health and Disability Prevention Program for their dental treatments. Petitioner does not believe that his actions were dishonest or that he

clients, or customers to any person, irrespective of any membership, proprietary interest, or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

had caused any harm. In fact, according to petitioner, he “saved the State of California lots of money because [he] prevented people from landing in the ER.”

10. During cross-examination, when asked about his admissions of fraud contained in the Stipulation, petitioner testified that he signed the document without reading it or understanding it. This assertion is not credible, given that petitioner signed the Stipulation under the following terms of acceptance:

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Thomas R. Bradford. I understand the stipulation and the effect it will have on my Dental License and Fictitious Name Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Dental Board of California.

(Ex. 1, Stipulation, Case No. DBC 2013-15, p. 9, lines 17-21.)

11. Petitioner’s credibility was further damaged when he denied committing his crime for financial gain and testified that he was not in any financial distress either in the past or presently. He claimed that a 2010 lien placed on his corporation arose from a rental dispute with his landlord and that there are no liens against him as an individual. However, a tax transcript submitted by petitioner shows that, on April 14, 2017, a federal tax lien was issued against him as an individual. This tax lien remained in effect as of June 12, 2017.

12. Moreover, on February 2, 2017, petitioner filed with the Drug Enforcement Agency (DEA) an Application for Registration under the Controlled Substances Act of 1970 (DEA Application). He electronically certified that all the information he had furnished in the application was true and correct. Question 3 of Section 4 of the DEA Application asks, “Has the applicant ever surrendered (for cause) or had a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation, or is any such action pending?” (Ex. 5.) Petitioner answered “No” to this question. His answer is false and dishonest.

13. Since discipline was imposed on his license, petitioner has been compliant with all terms of his Board probation. He has completed the required ethics course, over 100 hours of community service, paid his cost recovery balance in full and is current with his probation monitoring fee. He has also submitted his quarterly reports of compliance in a timely manner. There is no evidence that petitioner has suffered any subsequent criminal convictions or arrests.

14. Petitioner submitted two professional references, which are described, in part, below.

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15. In a letter dated October 3, 2016, Olga Lafflitto, Dental Administrator at the Free Clinic of Simi Valley, where petitioner performs his community service, wrote:

[Petitioner] is [a] very professional, reliable and dedicated person. His ethics are without compare. From the very first day of volunteering his loyalty was beyond reproach.

[Petitioner] embraced the concepts and goals of the Free Clinic and made them his own. [¶] I have the utmost trust in [petitioner]. He is completely honest, loyal and dedicated.

(Ex. 1, Lafflitto Letter.)

16. In a letter dated October 4, 2016, Artin Davoodian, DDS., an independent dentist to whom petitioner has referred patients, wrote:

I have had the privilege of treating [petitioner's] patients for the last 6 years. He shows great passion and takes great pride in providing exceptional care for his patients.

[Petitioner] has an exceptional personality. He is a great communicator; he is passionate about his work and feels strongly about serving his community. He is able to perform work with high precision, an ability that is beneficial to the field of dentistry.

(Ex. 1, Davoodian Letter.)

17. Petitioner seeks early termination of his Board probation in order to “get back [his] pride and dignity.” Petitioner also admitted that “as a matter of pride,” he did not disclose his criminal conviction or his Board probation to Dr. Davoodian.

18. Petitioner volunteers at his daughter's school and donates money to the local Boys' and Girls' Club. He also participates in CDA Cares, an annual one-day event in which volunteer dentists provide free treatments to low-income patients.

LEGAL CONCLUSIONS

1. In a proceeding for the restoration of a revoked license, petitioner bears the burden of proving rehabilitation and current fitness for licensure without restriction. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) The standard of proof is clear and convincing evidence. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315-316.)

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2. Business and Professions Code section 1686 states:

A person whose license, certificate, or permit . . . has been placed on probation may petition the board for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:

[¶] . . . [¶]

(b) At least two years for early termination of probation, or modification of a condition of probation of three years or more.

[¶] . . . [¶]

The petition may state any fact required by the board. The petition may be heard by the board, or the board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code.

In considering reinstatement or modification or penalty, the board or administrative law judge hearing the petition may consider (1) all the activities of the petitioner since the disciplinary action was taken, (2) the offense for which the petitioner was disciplined, (3) the petitioner's activities during the time the license, certificate, or permit was in good standing, (4) the petitioner's rehabilitative efforts, general reputation for truth and professional ability . . .

3. Cause does not exist to terminate petitioner's probation under Business and Professions Code section 1686, based on Factual Findings 1 through 17. He failed to establish, by clear and convincing evidence, that he is rehabilitated.

4. Pursuant to California Code of Regulations, title 16, section 1020, subdivision (d), when considering a petition for reinstatement of a license, the Board has set forth the following rehabilitation criteria: (1) the nature and severity of the offense; (2) total criminal record; (3) the time that has elapsed since commission of the offense; (4) compliance with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee; (5) evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code; and (6) evidence, if any, of rehabilitation submitted by the licensee.

5. Applying the rehabilitation criteria to the instant case, the nature of petitioner's offense was serious, in that his actions reflect poorly on the dental field and undercut the public's confidence in the profession. To petitioner's credit, he has completed his criminal

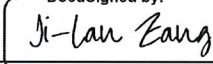
probation, and his conviction has been expunged. He has also complied with the terms of his Board probation, but this compliance is given little weight, as exemplary conduct is required of him while on probation. Although more than seven years have elapsed since petitioner's misconduct, the mere passage of time since the occurrence of his crime does not equate to rehabilitation. Rehabilitation must be affirmatively established by fully acknowledging the wrongfulness of past actions. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.)

6. Here, petitioner entered into the Stipulation, by which he admitted as true that he employed a solicitor for patient referrals and fraudulently billed Medi-Cal for patients who did not qualify for the Medi-Cal Child Health and Disability Prevention Program. Nevertheless, petitioner denied any wrongdoing, contending that payments to the solicitor was for reimbursement of transportation costs and blaming his front office for failing to verify the age of his patients. Petitioner did not evince an understanding of the full extent of his misconduct when he claimed that no one was hurt by his actions. Furthermore, he was less than candid in his testimony at the administrative hearing, and his failure to disclose his Board probation in the DEA Application is a recent act of dishonest omission. Petitioner also admitted that he did not disclose his criminal conviction or his Board probation to his professional reference, Dr. Davoodian. Petitioner's inability to speak honestly about his misdeeds suggests that he has not accepted personal responsibility for his past actions. Therefore, his rehabilitation remains incomplete, and it is not in the public interest to terminate petitioner's probation at this time.

ORDER

The Petition of Ali Saeghi, DDS, for termination of his probation is denied.

Dated: July 21, 2017

DocuSigned by:

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JI-LAN ZANG
Administrative Law Judge
Office of Administrative Hearings